

ENFORCEMENT UNDERTAKINGS

LICENSEE:

Southern Health NHS Foundation Trust
Trust Headquarters, Sterne 7
Tatchbury Mount
Calmore
Southampton
SO40 2RZ

DECISION

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, Monitor has decided to accept from the Licensee the enforcement undertakings specified below, pursuant to its powers under section 106 of the Health and Social Care Act 2012 ("the Act").

GROUND

1. Licence

The Licensee is the holder of a licence granted under section 87 of the Act.

2. Breaches

2.1. Monitor has reasonable grounds to suspect that the Licensee has provided and is providing health care services for the purposes of the NHS in breach of the following conditions of its licence: FT4(4)(b) and (c); FT4(5)(b), (c), (e) and (f); FT4(6)(c) to (f); and FT4(7).

2.2. In particular:

2.2.1. Following a two day routine Care Quality Commission ("CQC") inspection at the Learning Disability facility at Slade House on 16th and 17th September 2013, the Trust was found non-compliant with ten outcomes, with six major and four moderate concerns. The CQC issued 6 warning notices. Following this inspection, a further three warning notices have been issued in relation to three of the Trust's other sites and a further warning notice is currently in draft for another site. Of the nine CQC warning notices issued to the Trust to date, four have been subsequently lifted following CQC re-inspections at the relevant units.

2.2.2. The Licensee commissioned an external review of the due diligence undertaken by the Licensee for its acquisition of the Oxford Learning Disabilities NHS Trust in December 2013, which highlighted a number of issues with regard to the Trust's management of the risks identified in the due diligence of the acquisition.

2.2.3. The Licensee commissioned an independent investigation by Verita into the death of a service user at the Short Term Assessment and Treatment Team (STATT) unit at Slade House, which identified that the death was preventable and that the STATT unit lacked effective clinical leadership.

2.2.4. The Licensee commissioned an external review of quality governance which raised a number of issues particularly in relation to the Trust's risk management approach, varying quality governance processes in its divisions and the lack of comprehensive quality information reported to the Board.

2.2.5. The Licensee commissioned an external review of Board Governance which, although largely positive, identified that the Board requires greater oversight during the current transformational changes to its divisional structure.

2.2.6. These breaches by the Licensee demonstrate a failure of governance arrangements including, in particular, failure to establish and effectively implement systems or processes:

- a) for timely and effective scrutiny and oversight by the Board;
- b) to ensure compliance with healthcare standards specified by the CQC;
- c) to obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;
- d) to identify and manage material risks to compliance with licence conditions; and
- e) to ensure matters relating to quality of care specified in FT 4(6)(c) to (f) are complied with.

2.3. Need for action

Monitor believes that the action which the Licensee has undertaken to take pursuant to the undertaking recorded here is action to secure that the breaches in question do not continue or recur.

3. Appropriateness of Undertakings

In considering the appropriateness of accepting in this case the undertakings set out below, Monitor has taken into account the matters set out in its Enforcement Guidance.

UNDERTAKINGS

The Licensee has agreed to give and Monitor has agreed to accept the following undertakings, pursuant to section 106 of the Act:

1. Warning notices

- 1.1. The Licensee will take all actions necessary to address the issues identified by the CQC in its investigation reports dated 21 November 2013, 18 January 2014, 26 February 2014 and 8 March 2014 and the investigation report yet to be published following inspection of the Evenlode site on 28 January 2014, including taking the steps necessary to ensure that the warning notices are lifted.

2. Former Oxford Learning Disabilities NHS Trust ("the Ridgeway") services

- 2.1. The Licensee will, by 30 June 2014 or such other date as is agreed with Monitor, obtain external assurance by a specialist to be agreed with Monitor on the effectiveness of its turnaround plan for the former Ridgeway services ('the turnaround plan') to improve quality and performance of services including through the introduction of a new clinical model. The Licensee will revise the turnaround plan to incorporate any recommendations, and address any issues, identified by the external review.
- 2.2. The Licensee will implement the turnaround plan in accordance with a timetable to be agreed with Monitor.

3. Governance

- 3.1. The Licensee will implement all of the actions and recommendations identified in the Board Governance Review and Quality Governance Review dated 7 March 2014 ("the Reviews") in accordance with the timetables set out in the Trust's management responses to the Reviews or such other dates as are agreed with Monitor.
- 3.2. The Licensee will by 31st January 2015, or such other date as is agreed with Monitor, commission an external follow up review of Board governance and quality governance from a source, and according to a scope, to be agreed with Monitor.

4. Meetings

- 4.1. The Licensee shall attend meetings (or if Monitor stipulates conference calls) with Monitor during the currency of the undertakings detailed in this notice to discuss its progress in meeting these undertakings. These meetings shall take place once a month unless Monitor otherwise stipulates, at a time and place to be specified by Monitor and with attendees specified by Monitor.

THE UNDERTAKINGS SET OUT HERE ARE WITHOUT PREJUDICE TO THE REQUIREMENT ON THE LICENSEE TO ENSURE THAT IT IS COMPLIANT WITH ALL THE CONDITIONS OF ITS LICENCE, INCLUDING ANY ADDITIONAL LICENSE CONDITION IMPOSED UNDER SECTION 111 OF THE ACT AND THOSE CONDITIONS RELATING TO:

- **COMPLIANCE WITH THE HEALTH CARE STANDARDS BINDING ON THE LICENSEE; AND**
- **COMPLIANCE WITH ALL REQUIREMENTS CONCERNING QUALITY OF CARE.**

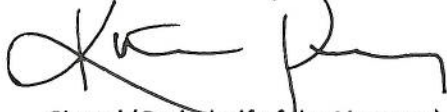
ANY FAILURE TO COMPLY WITH THE ABOVE UNDERTAKINGS WILL RENDER THE LICENSEE LIABLE TO FURTHER FORMAL ACTION BY MONITOR. THIS COULD INCLUDE THE IMPOSITION OF DISCRETIONARY REQUIREMENTS UNDER SECTION 105 OF THE ACT IN RESPECT OF THE BREACH IN RESPECT OF WHICH THE UNDERTAKING WAS GIVEN AND/OR REVOCATION OF THE LICENCE UNDER SECTION 89 OF THE ACT.

WHERE MONITOR IS SATISFIED THAT THE LICENSEE HAS GIVEN INACCURATE, MISLEADING OR INCOMPLETE INFORMATION IN RELATION TO AN UNDERTAKING: (i) MONITOR MAY TREAT THE LICENSEE AS HAVING FAILED TO COMPLY WITH THE UNDERTAKING; AND (ii) IF MONITOR DECIDES

SO TO TREAT THE LICENSEE, MONITOR MUST BY NOTICE REVOKE ANY COMPLIANCE CERTIFICATE GIVEN TO THE LICENSEE IN RESPECT OF COMPLIANCE WITH THE RELEVANT UNDERTAKING.

LICENSEE

Dated 17 APRIL 2014

A handwritten signature in black ink, appearing to be 'K. P.', written over a horizontal line.

Signed (On behalf of the Licensee)

MONITOR

Dated 16 April 2014

A handwritten signature in black ink, appearing to be 'D. B.', written over a horizontal line.

Signed (Chair of Provider Regulation Executive)